Calendar No. 342

101ST CONGRESS *1st Session*	SENATE	REPORT 101-182

COAST GUARD AUTHORIZATION ACT OF 1989

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1512

NOVEMBER 2 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

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COAST GUARD AUTHORIZATION ACT OF 1989

NOVEMBER 2 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1512]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1512) to authorize appropriations for the Coast Guard for fiscal years 1990 and 1991, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 1512, as reported, would reauthorize appropriations for the U.S. Coast Guard for fiscal years (FY) 1990 and 1991, covering four appropriations accounts: (1) operations and maintenance (O&M); (2) acquisition, construction, and improvement of equipment and facilities (AC&I); (3) research and development (R&D); and (4) retired pay. The bill also authorizes end-of-year military strength and training loads, transfers the Coast Guard's bridge administration program to the Army Corp of Engineers, and makes changes to existing law in eleven other areas.

BACKGROUND AND NEEDS

The second largest entity within the Department of Transportation (DOT), the Coast Guard is the principal Federal maritime safety and law enforcement agency. Its typical civilian activities include vessel safety inspection, the rescue of life and property at sea, fishery law enforcement, marine environmental protection, and the interdiction of drug trafficking. In addition, the agency carries out port security functions, cooperates closely with the

other armed forces in military readiness activities, and has the lead responsibility for the coastal defense of the United States. In time of war and national emergency, the Coast Guard becomes an arm of the U.S. Navy.

The Coast Guard's authorization legislation expired at the end of FY 1989, and the Committee strongly supports reauthorization at levels that will permit the continuation of existing functions without reduction. While the Coast Guard has many important missions, the service's critical role in environmental protection has been highlighted this year by the series of oil spills that have occurred around the country. Responding to these spills is not a new job for the Coast Guard; each year the service responds to over 7,000 oil spills in the maritime areas of the United States. However, none have been as large, as damaging, or as demanding as the *Exxon Valdez* spill.

Equally important as the Coast Guard's environmental protection mission is the service's role in drug interdiction. The President requested an additional $10 million for drug interdiction over what was requested by the previous Administration. The Committee strongly supports the strengthening of the drug enforcement function. However, as in prior years, the Committee does not wish drug interdiction to be enhanced at the expense of essential lifesaving, navigational safety, environmental protection, and fishery enforcement duties.

ICEBREAKER PROCUREMENT

In the early 1980s, the Office of Management and Budget (OMB) established an interagency committee to carry out a comprehensive study of the Nation's ice breaking needs. The committee, which consisted of representatives of the Departments of Transportation, Defense, and Commerce and the National Science Foundation, concluded that the Coast Guard should maintain a fleet of four icebreakers to meet the Nation's requirements. As a result of the decommissioning of two icebreakers last year, the Coast Guard's icebreaking fleet now consists of only two vessels, the *Polar Star* and *Polar Sea.*

BRIDGE ADMINISTRATION TRANSFER

Currently, a bridge or causeway over navigable waters is subject to Federal regulations imposed by the Coast Guard and the Army Corps of Engineers. The Coast Guard now has the responsibility for bridge and causeway construction approval, drawbridge regulation, and administration of bridge alterations. The Army Corps of Engineers regulates dredging and filing of wetlands. The Administration has proposed to transfer the bridge program from the Coast Guard to the Army Corps of Engineers. The consolidation of the regulation of bridges in the Army Corps would result in a savings to the Government and would eliminate project delays by streamlining permitting.

MOTOR LIFEBOATS

The Committee strongly supports the Coast Guard's motor lifeboat replacement program. The Coast Guard currently operates a

fleet of 105 lifeboats at 77 Coast Guard stations around the Nation. These 44-foot vessels, which provide heavy weather rescue capability for the Coast Guard, are nearing the end of their service life. In June 1988, a contract was awarded to Textron Marine Systems, Inc. of New Orleans, LA, for the prototype contract design and construction. The prototype is to be delivered for testing by the middle of 1990. Following testing of the prototype, the Coast Guard will contract for five pre-production boats which incorporate modifications recommended during the prototype evaluation. The Committee understands that the production contract for the motor lifeboats will be awarded during FY 1992.

CONSTRUCTIVE SEIZURE

In recent years, the Coast Guard has attempted to combat drug use by developing a program popularly known as "zero tolerance". Prior to the institution of this program, the Coast Guard typically did not take physical custody for personal use on board the vessel. Under the "zero tolerance" program, however, the Coast Guard seized a vessel if drugs are discovered on board the vessel. Such an immediate seizure of a vessel engaged in coastwise trade effectively removes the vessel from commercial activity and causes economic losses to the innocent owner that can be devastating.

LIMITATION ON VESSEL TRANSFER FROM GULFPORT, MS

Coast Guard vessels in the Gulf of Mexico must respond to the needs of a large number of oil tankers and merchant cargo vessels, commercial and recreational fishing vessels, and pleasure boats. In addition to these traditional missions, the Gulf of Mexico has increasingly become the scene of intensive drug interdiction efforts by the Coast Guard to stem the flow of illegal drugs into the United States. During fiscal year 1988, the Coast Guard seized or assisted in the seizure of 25 vessels in the Gulf of Mexico. These seizures resulted in the confiscation of 174,704 pounds of marijuana and 1,690 pounds of cocaine with a total street value of approximately $425 million. The Coast Guard's assets with which to meet these needs are extremely limited. Large vessels based at Gulfport, MS are limited to the cutter *Acushnet* and only one 82-foot patrol boat.

ANTI-SUBMARINE WARFARE TRAINER

The Committee urges that the Coast Guard evaluate the procurement of modified AN/SQQ–T1 onboard trainers to train ASW system operators, utilizing passive acoustic surveillance techniques, to interdict vessels that may be involved in the transfer of narcotics and other illicit goods. The Committee believes that modern anti-submarine warfare techniques that employ passive acoustic systems may present an important opportunity to the Coast Guard for improving its ability to perform its law enforcement and drug interdiction missions. The Committee encourages the Coast Guard to investigate the advantages of acoustic surveillance that may be derived from such equipment, which provides the ability to detect, classify, and locate surface ships without the use of radar and to detect surface contacts beyond radar range.

MAJOR MAINTENANCE AVAILABILITY PROGRAM

The Committee has heard concerns regarding a recent Coast Guard procurement decision involving rehabilitation of the service's 210-foot cutters. The Committee recognizes the complexities of the project and the difficulties encountered by both the private shipyard and the Coast Guard shipyard during the initial stages of the effort. However, to ensure that this and future procurements are conducted in a fair and equitable manner, the Committee intends to thoroughly review the Major Maintenance Availability program to date and to maintain a continued interest in the operation of this program.

LEGISLATIVE HISTORY

An authorization hearing of the Committee and National Ocean Policy Study was held on June 19, 1989. Testimony was received from the Commandant of the Coast Guard, Adm. Paul A. Yost, concerning the agency's budget and other related issues. S. 1512 was introduced on August 3, 1989, by Senator Hollings and is cosponsored by Senators Kerry, Breaux, and Stevens. On October 5, 1989, the Committee, without objection, ordered S. 1512 reported with an amendment in the nature of a substitute. The language of the substitute is the original text of S. 1512 with an increase of $10 million each year for the Research and Development account and several new provisions.

SUMMARY OF MAJOR PROVISIONS

S. 1512 contains provisions applicable to Coast Guard appropriations, end-of-year military strength, and training loads for FY 1990 and 1991. In addition, it makes several other changes to existing law. The bill is generally consistent with the Administration's budget request, although the O&M, AC&I, and R&D accounts are all authorized at levels somewhat above those requested.

The O&M account is $60 million and $53 million above the President's request for FY 1990 and 1991, respectively. This increase will enable the Coast Guard to increase the number of full-time employees to the level authorized by the bill. The AC&I account is $64 million over the Administration's request for FY 1990 and 1991. These funds were added to allow the Coast Guard to address the patrol boat shortage that is expected in the mid-1990s. The R&D account is $10 million above the requested levels for FY 1990 and 1991. This increase was provided to enable the Coast Guard to expand the service's oil spill research activities.

Appropriations are authorized in the following amounts:

[Dollars in millions]

	Fiscal year—	
	1990	1991
O&M	$2,312	$2,381.5
AC&I	746.3	501.8
R&D	29.0	29.0

[Dollars in millions]

	Fiscal year—	
	1990	1991
Retired pay	420.8	451.2

Other provisions in the bill:

Change Coast Guard personnel appointment and promotion requirements;

Establish civil and criminal penalties for failing to stop a vessel when ordered by the Coast Guard;

Authorize funds for the Secretary of Transportation to upgrade the ground segment of the Search and Rescue Satellite Aided Tracking system (SARSAT);

Require the Secretary of Transportation to complete a study under OMB Circular A–76 before contracting out any Coast Guard service;

Convey title to the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation in New Shoreham, RI;

Direct the Secretaries of Transportation and Treasury to develop and implement a procedure for constructive seizure of vessels operating in coastwise trade;

Prohibit the Secretary of Transportation from transferring the Coast Guard cutter *Acushnet* from Gulfport, MS, until at least two patrol boats are based there; and

Provide for the transfer of the Coast Guard's bridge program to the Army Corps of Engineers.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 26, 1989.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1512, the Coast Guard Authorization Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1512.
2. Bill title: Cost Guard Authorization Act of 1989.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, October 5, 1989.

4. Bill purpose: S. 1512 would authorize appropriations to the U.S. Coast Guard (USCG), including, for fiscal years 1990 and 1991, respectively: $2,312 million and $2,382 million for operating activities, $746 million and $502 million for acquisition and construction, and $421 million and $451 million for retirement payments. An additional $29 million in each of the two years would be authorized for projects carried out under the agency's research, development, test and evaluation account.

Section 111 would direct the Secretary of Transportation to establish at least five ground stations for the Search and Rescue Satellite Aided Tracking system (SARSAT). The bill would authorize the appropriation of $5.3 million for this purpose.

Title II of this bill would transfer the authority to administer bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, effective one year after enactment. The bill would direct the Secretary of Transportation to transfer all civilian employees, personnel positions, assets and liabilities, property, records and other resources employed for this purpose to the Secretary of the Army.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated authorization level	3,094	2,912	.....	.....	.....
Estimated outlays	1,992	2,568	825	395	175

The authorization for Coast Guard retirement pay has not been included in the above table because such pay is an entitlement under current law.

The costs of this bill fall within budget function 400.

Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized for USCG programs will be appropriated for each fiscal year. The entire $5.3 million authorized for the SARSAT system is assumed to be appropriated for fiscal year 1990. Most of this amount would be spent during fiscal years 1990 and 1991 to design and construct five ground stations. Also, in fiscal year 1990, an additional $1 million has been included to reflect one-time costs of transferring the USCG's bridge administration functions to the Army Corps of Engineers. This amount would be spent over fiscal years 1990 and 1991 to relocate employees and equipment. We do not expect this transfer to cause any significant change in annual federal spending for bridge administration activities.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On July 10, 1989, CBO prepared a cost estimate for H.R. 2459, the Coast Guard Authorization Act of 1989, as ordered reported by the House Committee on Merchant Marine and Fisheries on June 21, 1989. Differences in the two estimates reflect differences in authorization levels between the two bills.

(Overall, the Senate bill contains higher 1990 authorizations. In addition, the Senate bill would authorize appropriations for two fiscal years rather than one and would not authorize any sums for alteration of bridges.)

Also, on June 29, 1989, CBO prepared a cost estimate for H.R. 1755, the Bridge Administration Transfer Act, as ordered reported by the House Committee on Merchant Marine and Fisheries on June 21, 1989. That estimate is identical to CBO's estimate for Title II of S. 1512.

9. Estimate prepared by: Deborah Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

Title I of S. 1512 authorizes appropriations to continue existing Coast Gaurd programs and makes several changes to existing law. However, it will result in no additional regulation. It will therefore have no further effect on the number or type of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses. The purpose of title II of the bill, the "Bridge Administration Transfer Act," is to streamline bridge project permitting. As a result, the economic impact, paperwork, and other regulatory burdens should be reduced.

Section-By-Section Analysis

SECTION 1.—SHORT TITLE

The bill is entitled the "Coast Gaurd Authorization Act of 1989".

TITLE I

SECTION 101.—AUTHORIZATION OF FUNDS FOR FY 1990

This section would authorize funds for FY 1990 in accordance with the following table:

[In millions]

Account	*Amount*
O&M	$2,312.20
AC&I	764.30
Bridge Alteration	0.00
Research & Development	29.00
Retired Pay	420.80

SECTION 102.—AUTHORIZATION OF FUNDS FOR FY 1991

This section would authorize funds for FY 1991 in accordance with the following table:

[In millions]

Account	*Amount*
O&M	$2,381.50
AC&I	501.80

Account	*Amount*
Bridge Alteration	0.00
Research & Development	29.00
Retired Pay	451.20

SECTION 103.—AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FY 1990

This section would authorize a Coast Guard FY 1990 end-of-year strength of 38,199 active duty personnel, which does not include members of the Ready Reserve. This section also would authorize average military training student loads as follows:

Training	*Student years*
Recruit	2,587
Flight	110
Professional	390
Officer	900

SECTION 104.—AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FY 1991

This section would authorize a Coast Guard FY 1991 end-of-year strength of 38,199 active duty personnel, which does not include members of the Ready Reserve. This section also would authorize average military training student loads as follows:

Training	*Student years*
Recruit	2,587
Flight	110
Professional	370
Officer	865

SECTION 105.—PROMOTION, CONTINUATION, AND RETIREMENT OF COAST GAURD PERSONNEL

This section of the bill makes four changes to provisions concerning Coast Guard personnel in title 14, U.S. Code.

The first change would provide for the continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances at the rank of vice admiral when selected for Commandant. Currently, all appointments to the rank of admiral and vice admiral are temporary and remain in effect only as long as the appointee actually serves in the position authorized for those grades. This change to 14 U.S.C. 52 would be consistent with the provision in 10 U.S.C. 601 which governs Department of Defense (DOD) officers in the same situation.

The second change made by this section would improve the efficiency of the appointment process for junior officers selected for promotion to the grades of lieutenant and lieutenant (junior grade). Amendment of 14 U.S.C. 271 would permit the appointment of officers selected for promotion in the grades of lieutenant and lieutenant (junior grade) with only Presidential approval. By eliminating Senate confirmation for promotion appointments to lieutenant and lieutenant (junior grade), the appointment process could be completed shortly after selection board action. This proposed change is consistent with the provision in 10 U.S.C. 624 which governs the DOD process for promotion of officers to those grades.

The third change made by this section would provide needed flexibility in the management of the number of senior captains re-

tained on active duty to fill the limited number of billets requiring their level of experience. Currently, section 289(c) of title 14, U.S.C. Code, requires the selection of not less than 75 percent of those captains considered for continuation. Active duty officers on the active duty promotion list who will have completed three years in the grade of captain in the promotion year in which the continuation board meets may be considered for continuation. This subsection would decrease the required selection to not less than 50 percent of those captains considered.

The fourth change made by this section would eliminate the need for two personnel boards in order to involuntarily retire an enlisted member. Currently, section 357 of title 14, U.S. Code, authrizes the Commandant to assemble annually an enlisted personnel board to consider retirement recommendations for those enlisted members having twenty years of service. If the Commandant approves the recommendation of the board, a member recommended for retirement has thirty days in which to decide to accept the determination of the board or protest the action. If the member protests the action, the member may not be retired until a subsequent annual board again recommends that the member be retired. This lengthy process reduces the Coast Guard's ability to control enlisted advancement.

SECTION 106.—AUTHORITY TO BE TRANSFERRED TO SECRETARY OF NAVY IN THE EVENT OF TRANSFER OF THE COAST GUARD TO NAVY

Section 1 of title 14, U.S. Code, provides that the Coast Guard is a service within the DOT except when operating as a service in the Navy. Section 3 of title 14, U.S. Code, provides that the Coast Guard shall operate as a service in the Navy upon the declaration of war or when the President directs. Section 108 of title 49, U.S. Code, provides that the Secretary of Transportation exercises all duties and powers related to the Coast Guard, except when the Coast Guard operates as a service in the Navy. This section would ensure that the Coast Guard is authorized to continue to perform all of its essential functions through delegation of authority to the Commandant by the Secretary of the Navy whenever the Coast Guard is required to operate as a service in the Navy.

SECTION 107.—AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS

This section amends the Act to Prevent Pollution from Ships (APPS), Public Law 96-478, as amended in the 100th Congress by Public Law 100-220. APPS originally implemented the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL), as amended by the 1978 Protocol including Annexes I and II concerning the prevention of pollution by oil and noxious liquid substances. Public Law 100-220 amended APPS to implement Annex V, concerning the prevention of pollution by garbage. Public Law 100-220 was not intended to make substantive changes to APPS as it applied to Annexes I and II. However, in three instances there were changes made in the language implementing Annex V which could affect the earlier annexes. The technical

amendments contained in this section will make the affected section consistent with congressional intent.

SECTION 108.—SAFEGUARDING OF MILITARY WHISTLEBLOWERS

The National Defense Authorization Act for Fiscal Year 1989 amended section 1034 of title 10, U.S. Code, to provide safeguards for military whistleblowers. The intent of the amendment was to include members of the Coast Guard in the same manner as members of the other armed forces. The language used is not consistent throughout the amendment in its application to the Coast Guard. This section amends the language to provide the proper relationships between the Secretary of Transportation, the Inspector General, and the Coast Guard member.

SECTION 109.—PENALTIES FOR FAILURE TO COMPLY WITH A LAWFUL BOARDING

Under current law, the Coast Guard is authorized to board and examine any vessel subject to the jurisdiction of the United States. Current law also authorizes the Coast Guard to fire into a vessel which fails to stop after warning. However, it does not provide any civil or criminal penalty for failing to bring-to a vessel. This section establishes both a criminal and civil penalty regime to address the problem.

SECTION 110.—GREAT LAKES PILOTAGE

This section would amend section 9308 of title 46, U.S. Code, by increasing the civil penalties in that section from $500 to $10,000. Section 9308 is the penalty section for Chapter 93 of title 46, which governs Great Lakes pilotage.

SECTION 111.—SEARCH AND RESCUE SATELLITE SYSTEM

This section authorizes funds for the Secretary of Transportation to take the necessary action to upgrade the ground segment of SARSAT. The section calls for the Secretary of Transportation to establish not less than five SARSAT ground stations to provide adequate coverage for the area for which the United States is responsible under the COSPAS-SARSAT program. The Secretary of Transportation, in consultation with the satellite search and rescue offices of the Coast Guard, the National Oceanic and Atmospheric Administration, the Air Force, the National Aeronautics and Space Administration, and the SARSAT Program Steering Group, shall locate the stations in optimal sites to assure complete coverage. The level of authorization is $5,300,000, which remains available until expended.

SECTION 112.—LIMITATIONS ON CONTRACTING OF COAST GUARD SERVICES

This section prohibits an employee of the United States from entering into a contract for the performance of any function being performed by Coast Guard personnel as of January 1, 1989, unless two conditions are met. Specifically, the conditions are: (1) an Office of Management and Budget Circular A-76 study must have been completed; and (2) the Secretary of Transportation must have

completed a study of how the proposed contract will affect the multimission capabilities of the Coast Guard.

SECTION 113.—SOUTHEAST LIGHTHOUSE PRESERVATION

This section requires the Secretary of Transportation to convey all right, title, and interest of the United States in the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation in New Shoreham, Rhode Island. The Foundation is a public nonprofit center for interpretation and preservation of the Coast Guard and Block Island's maritime history.

SECTION 114.—CONSTRUCTIVE SEIZURE PROCEDURES

This section directs the Secretaries of Transportation and the Treasury to develop and implement within six months after the date of enactment of this legislation a procedure for constructive seizure of vessels engaged solely in coastwise trade which are suspected to being used for committing violations of law involving controlled substances. The constructive seizure procedure should allow an owner or operator to continue to operate a vessel while appealing the constructive seizure through appropriate channels. This section is designed to protect innocent owners from the devastating economic effects of the immediate physical seizure of a commercial vessel as a result of the "zero tolerance" program.

SECTION 115—LIMITATION ON VESSEL TRANSFER FROM GULFPORT, MISSISSIPPI

This section requires the Secretary of Transportation to refrain from transferring the Coast Guard cutter *Acushnet* from its present location in Gulfport, MS, until at least two Coast Guard patrol boats are based permanently in Gulfport. This section is designed to ensure that sufficient assets are maintained at Gulfport to meet the Coast Guard's multimission needs in the area. The *Acushnet* cannot be moved from Gulfport unless at least one patrol boat, in addition to the patrol boat already based there, is permanently based at Gulfport to substitute for the capabilities that would be lost due to the removal of the *Acushnet*.

TITLE II

SECTION 201.—SHORT TITLE

This title of the bill may be cited as the "Bridge Administration Transfer Act."

SECTION 202.—AUTHORIZATION AND DELEGATION

Section 202 of the bill is the basic authority for the transfer. It provides that the transfer will occur within one year of the date of enactment of the Act.

The section specified that the administration program transferred shall include all authorities for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other authority, functions, duties, and responsibilities for bridges and causeways over navigable waters, except (a) authority to prescribe lights and other signals on bridges and causeways for

the benefit of navigation and (b) administration of bridges over the Saint Lawrence Seaway. This intentionally omits mention of authority for regulation of international bridges over non-navigable waters, which is also retained in DOT Retention of authority by DOT over international bridges over non-navigable waters is specified in the conforming amendments to the International Bridge Act of 1972 in section 204 of the bill.

This division of authority may seem confusing at first glance, but should be quite workable in practice, as a few examples may illustrate. Any bridge over the Saint Lawrence Seaway will be under the authority of the Saint Lawrence Seaway Development Corporation (as it is now) under the specific reservation of authority over the Seaway. An international bridge over the Rio Grande River will be under the authority of the Army Corps of Engineers (instead of the Coast Guard) under the terms of the general transfer, because the Rio Grande is navigable. An international bridge over a non-navigable dry valley will be under the authority of the Federal Highway Administration or the Federal Railroad Administration (as it is now) because bridges not over those waters meeting the navigability criteria in the bridge statutes are not included in the terms of the general transfer. This division of authority is made clear by specific provisions added to the bridge statutes by the conforming amendments in section 204 of the bill.

SECTION 203.—PROCEDURE FOR TRANSFERS

Section 203 of the bill covers the housekeeping provisions necessary to the transfer. It provides flexibility for the transfer of personnel, money, and property. It also provides protection for Government employees subject to transfer, specifying that they shall not be separated or reduced in grade or compensation for one year after transfer.

SECTION 204.—CONFORMING AMENDMENTS

Section 204 makes detailed conforming amendments to the various bridge statutes, so that they properly reflect the transfer of administration.

SECTION 205.—COMPILATION OF LAWS

As noted above, the bridge statutes include six different uncodified acts, from the Rivers and Harbors Appropriations Act of 1899 to the International Bridge Act of 1972, which have been amended many times since 1989, up to recent and complicating amendments in the Surface Transportation and Uniform Relocation Assistance Act of 1987. It has become an unwieldy structure. Section 205 directs the Secretary of the Army to submit to the Congress a compilation of the bridge statutes, which may be used in a later recodification.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14 OF UNITED STATES CODE

SECTION 52 OF THAT TITLE

§ 52. Vice admirals; continuity of grade

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral *or admiral.*

SECTION 271 OF THAT TITLE

§ 271. Promotions; appointments

(a) through (d) * * *

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate. Appointments of Reserve officers shall be made as prescribed in section 593 of title 10, *except that such advice and consent shall not be required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant.*

SECTION 289 OF THAT TITLE

§ 289. Captains; continuation on active duty; involuntary retirement

(a) through (b) * * *

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be [no less than 75 percent] *no less than 50 percent* of the number considered. The board shall select from the designated continuation zone in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) through (g) * * *

CHAPTER 11 OF THAT TITLE

Sec. 211. Original appointment of permanent commissioned officers.

* * * * * * *

[357. Enlisted Personnel Board.]
357. Involuntary retirement of enlisted members.

* * * * * * *

§ 357. [Enlisted Personnel Board] *Involuntary retirement of enlisted members*

[(a) The Commandant shall assemble annually a Coast Guard Enlisted Personnel Board, of not less than three commissioned officers on the active list, who shall recommend for retirement such enlisted members who have twenty years of service, as the Board determines, in its discretion, should be retired from active service. The recommendations of the Board shall be transmitted to the

Commandant for final action. If the Commandant approves the recommendations of the Board, the enlisted members concerned shall be notified thereof in writing, and any enlisted member who, within thirty days after receipt of such notification, files with the Commandant a written protest of the action taken by the Board in his case, shall not be retired involuntarily under this section unless a subsequent annual Board again determines, in its discretion, and recommends that such enlisted member should be retired, in which case such enlisted member may, upon approval by the Commandant, be retired from active service. At the expiration of thirty days after receipt by an enlisted member of notice as aforesaid, in the event that no such protest is filed by him within the period prescribed, such enlisted member may, upon approval by the Commandant, be retired from active service. If the Commandant disapproves any recommendation of the Board the enlisted member concerned shall retain his status to the same extent as if his case had not been considered.]

(a) The Commandant may involuntarily retire enlisted members who have twenty years of service.

(b) Any enlisted member who has completed twenty years' service and who has been [retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board] *involuntarily retired by the Commandant* shall receive retired pay.

(c) * * *

CHAPTER 17 OF THAT TITLE

Sec. 631. Delegation of powers by the Secretary.

* * * * * * *

639. Penalty for unauthorized use of words "Coast Guard".
640. Failure to comply with a lawful boarding.

* * * * * * *

§ 639. Penalty for unauthorized use of words "Coast Guard"

* * * * * * *

§ 640. Failure to comply with a lawful boarding

(a) It is unlawful for any master, operator, or person in charge of a vessel subject to the jurisdiction of the United States to fail to bring-to that vessel on being ordered to do so or on being chased by any Coast Guard vessel or aircraft, or any other vessel of the Armed Forces which has displayed the ensign, pennant, or other identifying insignia prescribed for vessels or aircraft of the Coast Guard while lawfully operating with members of the Coast Guard aboard.

(b) It is unlawful for any person on board a vessel subject to the jurisdiction of the United States to—

(1) fail to comply with the lawful order of a Coast Guard commissioned, warrant, or petty officer in connection with the boarding of a vessel subject to the jurisdiction of the United States,

(2) impede or obstruct a lawful boarding or arrest, or

(3) provide information to a Coast Guard commissioned, warrant, or petty officer during a lawful boarding of a vessel subject to the jurisdiction of the United States regarding that vessel's destination, origin, ownership, registration, nationality,

cargo, or crew, which that person knows or has reason to know is false.

(c) Any person who intentionally violates this section is subject to—

(1) imprisonment for not more than five years;

(2) a criminal fine of not more than $25,000; and

(3) a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and an opportunity for a hearing.

(d) Any person who negligently violates this section is subject to a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and an opportunity for a hearing.

(e) Any vessel which is used in a violation of this section may be seized and forfeited in accordance with the customs laws. Any such vessel is also liable in rem for any criminal fine or civil penalty assessed under this subsection.

(f) At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance, required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91), of any vessel owned or operated by a person subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

* * * * * * *

§ 662. Requirement for prior authorization of appropriations

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

(1) For the operation and maintenance of the Coast Guard.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

[(3) For altering obstructive bridges.**]**

[(4)**]** *(3)* For research, development, test, or evaluation related to a matter referred to in **[**clauses (1)–(3)**]** *paragraph (1) or (2).*

* * * * * * *

TITLE 46 OF UNITED STATES CODE

SECTION 9308 OF THAT TITLE

§ 9308. Penalties

(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel knowingly allowing the vessel to be operated in violation of section 9302 of this title is liable to the United States Government for a civil penalty of **[**$500**]** *not more than $10,000* for each day during which the vessel is in violation. The vessel also is liable in rem for the penalty.

(b) An individual who directs the navigation of a vessel in violation of section 9302 of this title is liable to the Government for a

civil penalty of [$500] *not more than $10,000* for each day during which the violation occurs.

(c) A person violating a regulation prescribed under section 9303 of this title is liable to the Government for a civil penalty of [$500] *not more than $10,000.*

TITLE 49 OF UNITED STATES CODE

SECTION 108 OF THAT TITLE

§ 108. Coast Guard

(a) Except when operating as a service in the Navy, the Coast Guard is a part of the Department of Transportation. The Secretary of Transportation exercises all duties and powers related to the Coast Guard vested in the Secretary of the Treasury, and other officers and offices of the Department of Treasury, immediately before April 1, 1967.

(b) Subject to the provisions of any memorandum of understanding entered into between the Secretary of the Navy and the Secretary of Transportation, when the Coast Guard transfers to and operates in its entirety as a service in the Navy under section 3 of title 14, United States Code, those functions, powers, and duties vested in the Secetary of Transportation and exercised through delegations to the Commandant of the Coast Guard or other officers or employees of the Coast Guard are transferred to and vested in the Secretary of the Navy for as long as the Coast Guard operates in its entirety as a service in the Navy. All appropriations and funding associated with those functions, powers, and duties transferred to the Navy shall also transfer to the Secretary of the Navy. The Secretary of the Navy and the Secretary of Transportation may by memorandum of understanding provide for the transfer of additional functions, powers, and duties between the Secretary of the Navy and the Secretary of Transportation. Unless otherwise required by threat to the national security or public safety, such memorandums of understanding and any modifications thereto may not be effective until 30 days after notice in the Federal Register and written notice to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Armed Services of the House of Representatives. In the case of a threat to the national security or public safety as determined by the President, such memorandums of understanding may take immediate effect, and the reasons therefor shall be included in the notice, which shall be published in the Federal Register and transmitted to the Congress as soon as practicable.

[(b)] *(c)* The Commandant is the Chief of the Coast Guard. In addition to carrying out the duties and powers specified by law, the Commandant shall carry out duties and powers prescribed by the Secretary of Transportation. The Commandant reports directly to the Secretary.

TITLE 10 OF UNITED STATES CODE

SECTION 1034 OF THAT TITLE

§ 1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions

(a) through (b) * * *

(c) INSPECTOR GENERAL INVESTIGATION OF CERTAIN ALLEGATIONS.—(1) If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard *when the Coast Guard is not operating as a service in the Navy* an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation.

(2) through (4) * * *

(5) Not later than 30 days after completion of an investigation under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense *(or the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)* and the member of the armed forces concerned. In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.

(6) If, in the course of an investigation of an allegation under this section, the inspector General determines that it is not possible to submit the report required by paragraph (5) within 90 days after the date of receipt of the allegation being investigated, the inspector General shall provide to the Secretary of Defense *(or the Secretary of Transportation in the case of a member of the coast Guard when the Coast guard is not operating as a service in the Navy)* and to the member making the allegation a notice—

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

(7) * * *

(d) * * *

(e) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (d), the member or former member of the armed forces *(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)* who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the miltiary department concerned in the matter within 90 days after receipt of such a submittal.

ACT TO PREVENT POLLUTION FROM SHIPS

SECTION 6 OF THAT ACT

SEC. 6. (a) * * *
(b) * * *
(c)(1) If reception facilities of a port or terminal meet the requirements of [Annex V] *Annex I and Annex II* to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.
(2) through (4) * * *
(d) through (f) * * *

SECTION 8 OF THAT ACT

SEC. 8. (a) * * *
(b) * * *
(c)(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention *or this Act* by any seagoing ship referred to in section 3(a)(2) of this Act.
(2) * * *
(d) * * *
(e)(1) * * *
(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol *or this Act* has occurred the Secretary may undertake enforcement action under section 9 of this Act.

ACT OF MARCH 3, 1899

SECTION 9 OF THAT ACT

[SEC. 9. It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of Transportation, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of Transporation or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of Transportation or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the loca-

tion and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.]

SEC. 9. It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, if the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of such plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

SECTION 18 OF THAT ACT

[(a) Whenever the Secretary of Transportation shall have good reason to believe that any railroad or other bridge now constructed, or which may hereafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of Transportation shall forthwith notify the United States district attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required,

from the Secretary of Transportation, and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of Transportation in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

[(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

[(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

SEC. 18. (a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge to alter the bridge so as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove such bridge or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not

exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

Act of March 23, 1906

FIRST SECTION OF THAT ACT

[That when, hereafter, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of Transportation for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.]

That when, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications

for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

SECTION 4 OF THAT ACT

[SEC. 4. No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of Transportation, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of Transportation after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the person owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Commerce and Labor shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.]

SEC. 4. No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span or otherwise, or if there be difficulty in passing the draw open-

ing or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to alter the bridge so as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating the bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge is constructed with a draw, the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water crafts.

SECTION 5 OF THAT ACT

[SEC. 5. (a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of Transportation or the Chief of Engineers, made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of Transportation and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary of Transportation or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary of Transportation or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary of Transportation; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the circuit court of the United States in

any district which any portion of said obstruction or bridge touches.

[(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

SEC. 5. (a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act shall be deemed guilty of a misdemeanor and on a conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling any such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of such obstruction or bridge touches.

(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or

compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

ACT OF AUGUST 18, 1894

SECTION 5 OF THAT ACT

[SEC. 5. (a) It shall be duty of all persons owning, operating, and tending the drawbridges now built or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of Transportation the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more then $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of Transportation, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinafter provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations. Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

[(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

[(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than

$1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

SEC. 5. (a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, that whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to such regulations.

(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom

a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

ACT OF JUNE 21, 1940

FIRST SECTION OF THAT ACT

[That when used in this Act, unless the context indicates otherwise—

[The term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

[The term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, tenders, and appurtenances thereto, which is used and operated for the purposes of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for purpose of carrying highway traffic.

[The term "bridge owner" means any state, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code or lessee, such term shall include both the owner of the legal title and the persons or the entity in possession or control of such bridge.

[The term "Secretary" means the Secretary of Transportation.

[The term "United States", when used in a geographical sense, includes the Territories and possessions of the United States.]

That when used in this Act, unless the context indicates otherwise—

(1) the term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

(2) the term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

(3) the term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

(4) The term "Secretary" means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

(5) The term "United States", when used in a geographical sense, includes the commonwealths, territories, and possessions of the United States.

SECTION 4 OF THAT ACT

[SEC. 4. After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterward approved by the Secretary and the bridge owner.]

SEC. 4. After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.

SECTION 7 OF THAT ACT

[SEC. 7. Following service of the order requiring alteration of the bridge, the Secretary of Transportation may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the costs guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranted cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of Transportation may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payment to the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury

through the Division of Disbursement upon certifications of the Secretary of Transportation.]

SEC. 7. Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.

SECTION 13 OF THAT ACT

[SEC. 13. If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be appropriated as between the bridge owner and the United States in the manner which is provided for in section 6 hereof in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 hereof: Provided, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary of Transportation shall not find to be, in fact, a relocation of an existing bridge.]

SEC. 13. If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge

at the new site, shall be apportioned as between the bridge owner and the United States paid from the appropriation authorized in section 8 of this Act: Provided, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of an existing bridge.

GENERAL BRIDGE ACT OF 1946

SECTION 502 OF THAT ACT

[SEC. 502. (a) The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States in accordance with the provisions of this title.

[(b) The location and plans for such bridges shall be approved by the Secretary of Transportation before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

[(c) Notwithstanding the provisions of subsections (a) and (b), it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefore, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of Transportation and, if approved by the Secretary of Transportation, approval by the highway departments shall not be required.]

SEC. 502. (a) The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

(b) The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters

which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, and such location and plans shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway department shall not be required.

SECTION 510 OF THAT ACT

[SEC. 510. (a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of Transportation or the Chief of Engineers issued under the provisions of this title, or who willfully fails to comply with any specific condition imposed by the Chief of Engineers and the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpena or other lawful requirement under this title, or who otherwise violates any provisions of this title, shall, upon conviction thereof, be punished by a fine of not to exceed $5,000 or by imprisonment for not more than one year, or by such fine and imprisonment.

[(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

SEC. 510. (a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirements under this title, or who otherwise willfully violates any provisions of this title, shall, upon conviction

thereof, be punished by a fine not to exceed $5,000 or by imprisoned for not more than one year, or by both such fine and imprisonment.

(b) Whoever violates any provisions of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violations occurs for such penalty.

INTERNATIONAL BRIDGE ACT OF 1972

SECTION 2 OF THAT ACT

[SEC. 2. The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an "international bridge") and to collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign county concerned; (2) the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906 (33 U.S.C. 491–498) except section 6 (33 U.S.C. 496) whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this Act.]

SEC. 2. The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an "international bridge") and to the collection of tolls for its use, so far as the United States has jurisdiction. Such authorities in the foreign country concerned; (2) the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this Act. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

SECTION 5 OF THAT ACT

[SEC. 5. The approval of the Secretary of Transportation, as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act and shall be null and void unless the construction of the bridge is commenced within two

years and completed within five years from the date of the Secretary's approval: Provided, however, That the Secretary, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.]

SEC. 5. The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), and section 2 of this Act shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years after the date of the Secretary's approval: Provided, however, That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.

SECTION 11 OF THAT ACT

[SEC. 11. The Secretary of Transportation shall make a report of all approvals granted by him during the fiscal year pursuant to section 5 of this Act in each annual report of the activities of the Department required by section 11 of the Secretary of Transportation Act (49 U.S.C. 1658).]

SEC. 11. The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted by them under sections 2 and 5 of this Act.

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